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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,937	07/24/2003	Michael Lebner	0156-2004US01	9900

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EXAMINER

PANTUCK, BRADFORD C

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/625,937

Applicant(s)

LEBNER, MICHAEL

Examiner

Bradford C Pantuck

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on October 31, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-32 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 33, and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-31-2003</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Attachment A</u> .                     |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 3, 5, 6, 9-12, 18, 20, 22, 23, 26, 27, and 29 are rejected under 35

U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,329,564 B1 to Lebner.

Regarding Claims 1 and 18, and with reference to Fig. 3, members (5) and (25) are first and second components. Each has adhesive on its backside for connecting to skin on either sides of a laceration [column 5, lines 51-52]. Each component (5 and 25) is attached to the anchoring member (15 and 35 respectively) by glue [column 6, lines 29-30]. Each connecting member (5 and 25—shown hatched in Attachment A) has a rectangularly shaped hole (47 and 49) cut therein, and laterally adjacent to each hole is a bridging portion, which spans over a laceration area. Said holes (47 and 49) are “positioned directly above the wound or incision to facilitate draining of exudates and application of medication” [column 6, lines 31-32]. Regarding the limitations of claim 1, sections i) and ii), Lebner teaches, “Elongated connectors 15 and 35 are attached to flat flexible components 5 and 25 by adhesive.” Lebner does not mention

specifically that more adhesive is applied to the lower surface of the *attached portion* than the *bridging portion*, however, since the lower *surface area* of the attached portion is *much larger* than the bridging portion [see Attachment A], the adhesive contained thereon will necessarily constitute the majority of the adhesive. That is, if one applied adhesive consistently on all areas of the connecting member, the volume of the adhesive on the attached portion would be larger than the volume of the adhesive on the bridging portion:

$$\text{Volume} = \text{surface area} \times \text{thickness}.$$

2. Regarding Claims 3, 5, 6, 20, 22, and 23, the applied prior art reference would meet claim 1 if it had merely one connecting member (37). However, Fig. 3 shows each component (5 or 25) having three connecting members (35 or 15) connected thereto. Therefore, for example, one of the *second or third connecting members* (35) could be called a “pulling element.” Such a pulling element is attached to the adjacent connecting member via the first/second component.

Alternatively, elements (40 and 45) can be considered pulling elements [column 6, lines 1-10]. These pulling elements are removable along serrated lines (17) and are shaped differently than the anchoring members.

3. Regarding Claims 9 and 26, Lebner discloses making his two-part connector out of an elastic polymeric material reinforced with mesh (for example). Such a spongy, sieve-like material would certainly be capable of having vapor (water particles) pass through it.

Art Unit: 3731

4. Regarding Claims 10, 12, 27, and 29, Lebner discloses such liners [column 1 line 66-column 2 line 16].
5. Regarding Claim 11, the phrase “optionally coded” is sufficiently broad to include *coded* and *not coded* embodiments.
6. Claims 1, 2, 10-14, 18, 19, and 27-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Publication No. US 2004/0204740 A1 to Weiser. Regarding Claims 1, 2, 18, and 19, each of Weiser’s components (1a & 1b) have adhesive for sticking to the skin {paragraph [0037]}, and anchoring members (5a/5b respectively) extending therefrom. Figure 5 shows attached portions (9), which are sections of the connecting members (5a/5b) that have adhesive. Bridging portions are not labeled with numbers, but are clearly evident in Fig. 5 as the part of each connecting member having *no adhesive* just adjacent to section (9) that will overlie the wound (22).
7. Regarding Claims 10-14 and 27-31, Weiser discloses these features in paragraph [0046].

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 7, 8, 11, 15, 21, 24, 25, 28, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,329,564 B1 to Lebner in view of U.S.

Art Unit: 3731

Patent No. 5,425,702 to Carn et al. Although Lebner fails to disclose either colors or indicia indicating distinction between pulling elements and anchoring members (Lebner *does* disclose colors/indicia *to indicate differing tensions* within adjacent connecting members [column 5 first full paragraph]), Carn discloses a very similar bandage with a very similar attachment scheme [see Fig. 1] and teaches using indicia or color coding so that the user knows which component attaches to which other component [column 3, lines 49-55, *especially lines 54-55*]. These colors are *capable of indicating to the user* the sequence of removal or a certain desired alignment.

9. Regarding Claims 13, 14, 30, and 31, these numbers/colors could be used to enable distinction between the liners adjacent to the numbers at the various connection points.

#### ***Allowable Subject Matter***

10. Claims 16, 17, 33, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 4,825,866 A to Pierce

U.S. Patent No. 6,596,917 B2 to Oyaski

U.S. Patent No. 2,762,371 to Guio

Art Unit: 3731

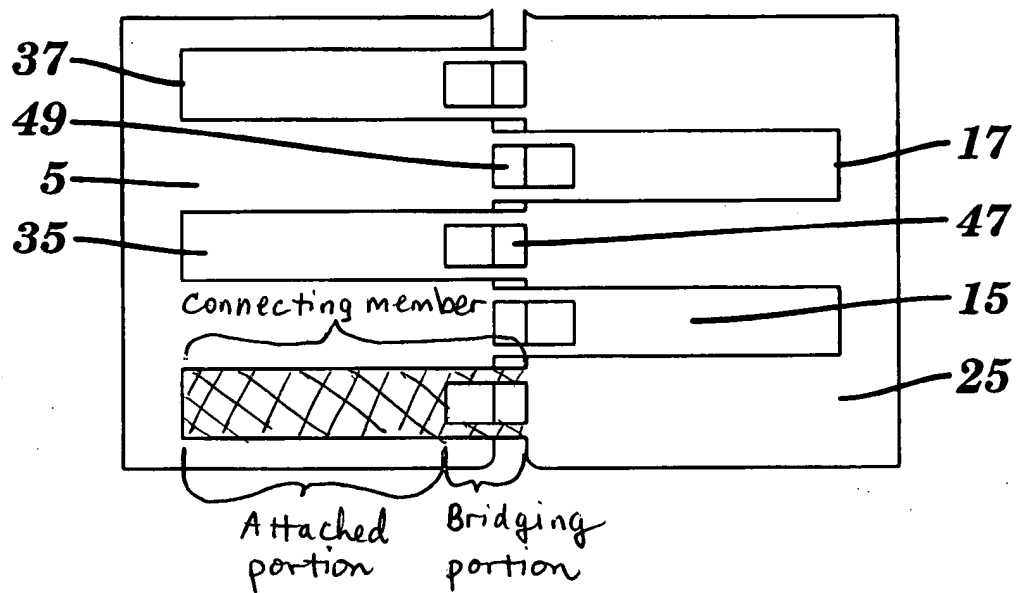
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradford C Pantuck whose telephone number is (571) 272-4701. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*BCP*  
BCP  
April 13, 2005

*GL*  
GLENN K. DAWSON  
PRIMARY EXAMINER



**FIG. 3**